IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 18TH JANUARY 2007 / 28TH PAUSHA 1928

WP(C).No. 33947 of 2006(N)

LOK ADALATH CASE NO.593/06 IN
OS.46/2005 of SUB COURT, VADAKARA

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PETITIONER:

B.RAMANARAYANAN,
S/O.C.S.BALAKRISHNAN, 49 YEARS,
RESIDING AT 'APARNA',
NUT STREET, VADAKARA-4, VADAKARA TALUK,
KOZHIKODE DISTRICT.

BY ADV. SRI.B.KRISHNAN
SRI.R.K.MURALEEDHARAN
SRI.R.PARTHASARATHY

RESPONDENTS:

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1. THE CHAIRMAN,
TALUK LEGAL SERVICE COMMITTEE,
CONSTITUTED UNDER LEGAL SERVICE AUTHORITIES ACT,
(ADDL. DISTRICT JUDGE),
VADAKARA.

2. MOHANDAS K.P., S/O.KANARAN,
52 YEARS, RESIDING AT KARIPPALLY,
NEAR NEW BUS STAND, VADAKARA,
VADAKARA TALUK, KOZHIKODE DISTRICT,
(MIDHILA, KIZHAKKE NADA, GURUVAYUR).

BY ADV. SRI.C.VALSALAN
SRI.K.RAKESH ROSHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX:

EXT.P1: CERTIFIED COPY OF AWARD IN LOK ADALATH CASE NO.593/06 IN OS 46/05 SUB COURT, VADAKARA DT.19.3.2006

EXT.P2: COPY OF JOINT STATEMENT FILED BY WRIT PETITIONERS AND 2ND RESPONDENT BEFORE SUB COURT, VADAKARA IN OS 46/05 DT.19.3.06

EXT.P3: COPY OF IA 409/05 IN OS 46/05 SUB COURT, VADAKARA AND ORDERS THEREON

EXT.P4: COPY OF PETITION FOE REVIEW OF ORDER IN LOK ADALATH CAE NO.593/06 (OS 46/05), SUB COURT, VADAKARA DT.5.12.2006 AND ORDER THEREON DT.8.12.2006.

//True copy//

SHW TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 33947 OF 2006

Dated 18th January 2007

J U D G M E N T

Petitioner is plaintiff and second respondent defendant in O.S.46/2005 on the file of Sub court, Vadakara. Suit was referred to Taluk Lok Adalath, Vadakara. Ext.P1 award was passed accepting Ext.P2 joint statement filed by petitioner and second respondent. As per Ext.P2 agreement second respondent agreed to pay Rs.3,50,000/-, to petitioner on or before 30/6/2006. Agreement provides that if the amount is not paid on or before that day, petitioner is entitled to execute the decree to be passed pursuant to the agreement and can realise the amount by sale of the attached property. But unfortunately while Ext.P1 award, instead of granting the decree in terms of the agreement it was provided that suit is dismissed. Consequently on the same day, recording that I.A was dismissed, order of attachment before judgment made earlier was withdrawn and it was directed to address Sub Registrar office. Finding that

as per the award, suit was dismissed, petitioner filed Ext.P4 application under Sections 152 and 153 of Code of Civil Procedure, before the Lok Adalath to amend the award providing that suit is not dismissed but decreed. Instead of allowing the application petition was returned holding that remedy of the petitioner is to approach the High Court.

2. This petition is filed under Article 227 of Constitution of India for a direction to first respondent Chairman of Taluk Legal Service Committee to amend the award as sought for.

3. Though notice was served, first respondent did not appear. Second respondent appeared. Learned counsel appearing for petitioner and second respondent were heard.

4. As per Ext.P2 joint statement, second respondent agreed to pay Rs.3,50,000/- and in default agreed for execution of the award for realisation of the amount. It was also provided that on the failure of second respondent to pay the amount, petitioner is entitled to realise the amount by sale of attached property. In such circumstance, it is clear that Ext.P1 award was passed without applying mind to Ext.P2 settlement. It is clearly a clerical error

which should have been corrected, when the mistake was pointed out. It is therefore, necessary to issue sufficient directions.

5. Petition is allowed. First respondent Chairman of Taluk Legal Service Committee is directed to receive the petition filed for amendment of Ext.P1 award and place the same before the Lok Adalath Bench for passing appropriate order. When the petition is so placed before the Bench, as the award is not in accordance with Ext.P2 joint statement, Ext.P1 award is to be amended in accordance with Ext.P2 joint statement. Sub court, Vadakara is directed to intimate the concerned Sub Registrar office the fact that the order of attachment is made absolute and is subsisting.

Writ petition is disposed of.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.